

SUBJECT: Modifying bail setting process and eligibility

COMMITTEE: Constitutional Rights and Remedies, Select — committee substitute recommended

VOTE: 9 ayes — Ashby, Clardy, Geren, Jetton, Klick, Landgraf, Lozano, Shaheen, White

5 nays — S. Thompson, Bucy, A. Johnson, Longoria, Moody

1 absent — Neave

SENATE VOTE: On final passage, August 9 — 27-2 (Blanco, Eckhardt)

WITNESSES: For — Andy Kahan, Crime Stoppers of Houston; Michael Hartman, Texas Probation Association; Nikki Pressley, Texas Public Policy Foundation, Right on Crime; Ken W. Good, The Professional Bondsmen of Texas; Marvin Fletcher Jr; (*Registered, but did not testify*: Justin Keener, for Doug Deason, Paul Gastineau; Chris Kahan)

Against — Nick Hudson, American Civil Liberties Union of Texas; Jeffrey Stein, Civil Rights Corps; Adam Haynes, Conference of Urban Counties; Karen Munoz, Mano Amiga SM and LatinoJustice PRLDEF; Carson White, Texas Appleseed; David Gonzalez, Texas Criminal Defense Lawyers Association; Justin Martinez, Texas Criminal Justice Coalition; Lauren Rosales, The Bail Project; Katya Ehresman; Ash Hall; Wade Ivey; Judah Rice; Stephen Vigorito; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; Jennifer Toon, Coalition of Texans with Disabilities; Paul Sugg, Harris County Commissioners Court; Kathy Mitchell, Just Liberty; Matthew Lovitt, National Alliance on Mental Illness Texas; Joshua Massingill, Prison Fellowship Ministries; Adrian Shelley, Public Citizen; Maggie Luna, Statewide Leadership Council; Shea Place and Allen Place, Texas Criminal Defense Lawyers Association; Julie Wheeler, Travis County Commissioners Court; Patrick Humphrey, Vivent Health; Mark Faulkner; Barbara Fletcher; Idona Griffith; Brad Pritchett; Grace Thomas)

On — Jim Allison, County Judges and Commissioners Association of Texas; Russell Schaffner, Tarrant County; David Slayton, Texas Judicial Council

BACKGROUND: Texas Constitution Art. 1, sec. 11 and Code of Criminal Procedure art. 1.07 state that all prisoners shall be bailable unless accused of a capital offense when proof is evident. Texas Constitution Art. 1, sec. 11 establishes circumstances under which bail may be denied. Under these provisions, bail may be denied in cases with repeat offenders accused of certain felonies and in cases of individuals accused of certain offenses involving family violence and protective orders.

Code of Criminal Procedure art. 17.15 establishes rules for setting bail amounts, specifying that the amount of bail is to be governed by the Constitution and by the following rules:

- it must be sufficiently high to give reasonable assurance that the undertaking will be complied with;
- the power to require bail is not to be so used as to make it an instrument of oppression;
- the nature of the offense and the circumstances under which it was committed are to be considered;
- the ability to make bail is to be regarded, and proof may be taken upon this point; and
- the future safety of a victim of the alleged offense and the community shall be considered.

DIGEST: SB 6 would require the development and use of a public safety report to be used when setting bail, require magistrates making bail decisions to receive training, establish requirements related to who can set bail in certain cases and when certain actions need to be taken, and create a procedures for use in some cases involving bail schedules. The bill also would prohibit the release on personal bond for some offenses, modify the statutory rules governing the bail process, and require certain officials taking bail to obtain a defendant's criminal history. SB 6 also would

establish reporting requirements relating to bail and require notice of bond conditions to be sent to local law enforcement authorities.

The bill would be called the Damon Allen Act.

Development, use of public safety report system. SB 6 would require the development and use of a public safety report system to be used when making decisions about bail for criminal defendants in jail pretrial.

Development of public safety report system. The Office of Court Administration (OCA) would be required to develop and maintain a public safety report system for use by magistrates when making decisions about bail.

The system would have to:

- state the Code of Criminal Procedure's requirements and rules for setting bail;
- provide certain information about the defendant, the case, and the offense;
- provide information on the eligibility of the defendant for a personal bond;
- provide information on any required or discretionary bond conditions;
- summarize the criminal history of the defendant, including information about previous convictions, pending charges, previous sentences with a term of confinement, previous convictions or pending charges for offenses involving violence as defined by the bill, offenses involving violence against a peace officer, and previous failures of the defendant to appear in court after a release on bail; and
- be designed to collect and maintain the information provided on a bail form that would be required by the bill.

The public safety report system could not include any information not listed above and could not include a score, rating, or assessment of a

defendant's risk or make a recommendation on the appropriate bail for the defendant. The report could not be the only item relied on by a judge or magistrate to make a bail decision.

OCA would have to create the system by April 1, 2022, and provide access to the system to county and city officials at no cost.

OCA would have to use the information to collect data and report to state leaders on the number of defendants for whom bail was set, including the number in each category of offense, the number of personal bonds, and the number of monetary bonds.

Use of public safety report. Magistrates would be required to consider a public safety report before setting bail for defendants charged with a class B misdemeanor or higher offense.

Magistrates considering the release on bail of a defendant charged with an offense punishable as a class B misdemeanor or any higher offense would have to order that the personal bond office or other trained person use the public safety report system to prepare a report on the defendant. Magistrates would have to order that report be given to them as soon as practicable but not later than 48 hours after a defendant's arrest.

Magistrates could order and consider public safety reports for defendants charged with misdemeanors punishable by a fine only.

Magistrates would have to submit to OCA a bail form that included information about each defendant and the bail that was set.

Training, qualifications to make bail decisions. Only magistrates who met qualifications established in the bill could release on bail defendants charged with felonies or misdemeanors that carried potential terms of confinement. Such magistrates would have to be in compliance with training requirements in the bill.

OCA would be required to develop or approve training courses that

included magistrates' duties for setting bail in criminal cases. The courses would have to include an eight-hour initial training course that included training on the DPS criminal history system and a two-hour continuing education course. OCA would have to provide a method to certify that magistrates had completed the required training courses and had demonstrated competency of the course content.

OCA would have to make the training courses and certification available by April 1, 2022. The bill would establish deadlines for magistrates to complete required courses.

The Department of Public Safety (DPS) would be required to develop training courses on the use of the Texas Law Enforcement Telecommunications System (TLETS), which is a portal to criminal history and other databases, for each magistrate, judge, sheriff, peace officer, or jailer required to obtain criminal history record information under the Code of Criminal Procedure's bail provisions.

Bail for defendant charged with offense committed while on bail. SB 6 would establish requirements for courts if a defendant was charged with committing offenses while released on bail for another offense.

Under these circumstances, if a felony offense were committed in the same county as a previous felony offense for which the defendant was on bail, only the court in which the previous offense was pending could release the defendant on bail.

If a defendant is charged with a new offense while on bail for a previous offense and the new offense was committed in a different county than the previous offense, electronic notice of the new charge must be promptly given to the court in which the previous offense was pending so the court could reevaluate the bail decision, determine whether any bail conditions were violated, or take any other applicable action.

Action on bail decision. The bill would require magistrates to take certain actions regarding bail within 48 hours of an individual's arrest.

Within this time frame, a magistrate would be required to order, after individualized consideration of all circumstances and of other statutory factors, that a defendant be:

- granted personal bond with or without conditions;
- granted surety or cash bond with or without conditions; or
- denied bail in accordance with the Texas Constitution and other law.

In making bail decisions, magistrates would have to impose the least restrictive conditions, if any, and the personal bond or monetary bond necessary to reasonably ensure the defendant's appearance in court and the safety of the community, law enforcement, and the victim of the alleged offense. Unless specifically provided by another law, there would be a rebuttable presumption that bail, conditions of release, or both were sufficient to reasonably ensure the defendant's appearance in court and the safety of the community, law enforcement, and the alleged victim. These provisions could not be construed as requiring the court to hold an evidentiary hearing that was not required by other law.

The bill would establish requirements for using bail schedules and standing orders that set bail in certain situations. Judges would be prohibited from adopting a bail schedule or entering a standing order related to bail that was inconsistent with the bill or authorized a magistrate to make bail decisions without considering statutory factors listed in Code of Criminal Procedure art. 17.15(a).

Defendants who were denied bail or were unable to give bail in the amount required by a bail schedule or standing order would have to be provided the warnings required by Code of Criminal Procedure art. 15.17 when an arrested individual is taken before a magistrate.

Defendants charged with class B misdemeanor offenses or higher who were unable to give bail established by a bail schedule or standing order could file with the magistrate a sworn affidavit following a form laid out

in the bill. Defendants filing affidavits would have to complete a form to allow a magistrate to assess their financial situation. The form would have to be the form used to request a court-appointed attorney or a form developed by OCA and would have to collect, to the best of the defendant's knowledge, certain information.

Magistrates would have to inform defendants of their right to file an affidavit and ensure that the defendant received reasonable assistance in completing the affidavit and the form collecting financial information.

Defendants could file an affidavit any time before or during the bail-setting proceeding. A defendant who filed an affidavit would be entitled to a prompt hearing before the magistrate on the bail amount. The defendant would have to be able to present evidence and respond to evidence presented by a prosecutor.

Magistrates would have to consider the facts presented and the statutory rules for establishing bail and set the defendant's bail. If bail was not set below the amount required by the bail schedule or standing order, magistrates would have to make written findings supporting their decision.

Judges of courts trying criminal cases and other magistrates would have to report to OCA each defendant for whom a required hearing was not held within 48 hours of the defendant's arrest and the reason for the delay.

A statement or evidence derived from a statement could be used only to determine whether the defendant was indigent, to impeach the direct testimony of the defendant, or to prosecute the defendant for perjury.

Magistrates would be authorized to make bail decisions about defendants charged only with a fine-only misdemeanor without considering criminal history record information.

Prohibited release on personal bond. SB 6 would prohibit the release of certain defendants on personal bond, under which courts establish a bail

amount but defendants do not give the court money or other security and agree to return to court and to other conditions. Release on personal bond would be prohibited for those charged with:

- offenses involving violence, as defined by the bill; or
- a felony or certain other offenses committed while released on bail or community supervision.

The other offenses that would preclude a personal bond for someone on bail or community supervision would include certain offenses of assault involving bodily injury, deadly conduct, terroristic threat, or disorderly conduct involving a firearm.

The bill lists 20 offenses that would be considered violent offenses.

These provisions on personal bonds would take effect immediately if SB 6 received the necessary vote or the 91st day after the last day of the session if it did not receive the vote for immediate effect.

Rules for setting bail. The bill would revise provisions in Code of Criminal Procedure art. 17.15 that establish the rules for setting the amount of bail. It would expand the rules to apply to the conditions of bail.

The bill would state that current consideration required to be given to the nature of the offense and its circumstances should include whether the offense involved violence or violence against a peace officer. In addition to a current requirement that the future safety of a victim of an alleged offense and the community be considered, the bill would require the future safety of law enforcement to be considered.

The bill would add two rules to those that govern the setting of the amount of bail and conditions of release. The bill would require consideration of the criminal history record information for the defendant, including information obtained through the DPS system and through the public safety report system developed under the bill. The consideration would

have to include any acts of family violence, other pending criminal charges, and any instances in which the defendant failed to appear in court following release on bail. Citizenship status of the defendant also would have to be considered.

When determining whether clear and convincing evidence existed to deny a person bail as provided by the Constitution, magistrates would have to consider all information relevant to the statutory factors listed in the rules for setting bail.

Before sheriffs, peace officers, or jailers could take bail as currently allowed under Code of Criminal Procedure arts. 17.20 and 17.22, they would have to obtain the defendant's criminal history record information through the DPS system and through the public safety report system. If the defendant was charged with or had previously been convicted of an offense involving violence, the sheriff, officer, or jailer could not set the amount of the defendant's bail but could take bail in the amount set by the court.

Notice of bond conditions to local officials. The bill would require courts to notify certain law enforcement officials after a magistrate imposed a condition of release on bond or modified or removed a previous condition. By the next business day after the date a magistrate imposed, modified, or removed a condition of release on bond, the court clerk would have to send a copy of the order to the prosecutor and the sheriff of the county where the defendant resided.

If the order prohibited a defendant from going to or near a child care facility or school, the clerk also would have to send a copy of the order to the child care facility or school.

Magistrates would have to give defendants written notice of the conditions of release on bond and the penalties for violating a condition of release. A police chief or sheriff receiving a copy of an order would be required, within 10 days of receiving the order, to enter or modify information about the condition of release into the DPS database.

Reporting bail and pretrial release information. Court clerks would have to include certain information about bail in their currently required statistical monthly report to OCA. The report would have to include:

- the number of defendants for whom bail was set, including the number for each category of offense, the number of personal bonds, and the number of surety or cash bonds;
- the number of defendants released on bail who subsequently failed to appear;
- the number of defendants released on bail who subsequently violated a condition of release; and
- the number of defendants who committed an offense while released on bail or community supervision.

OCA would have to post the information on its website, and by December 1 each year, OCA would have to submit a report with the bail data to the governor, the lieutenant governor, the House speaker, and certain legislative committees.

OCA would be required to develop a form to be completed by a magistrate, judge, sheriff, peace officer, or jailer who set a defendant's bail for a class B misdemeanor or higher offense. The form would have to include specific information about the case and the defendant. It also would have to be signed by the person setting bail and require the person to identify the bail type, the amount, and any conditions of bail and certify other information, including that the person considered the information in the public safety report.

The form would have to be submitted to OCA, and OCA would have to publish each form in a publicly accessible database on the office's website.

Other provisions. SB 6 contains other provisions relating to bail bonds, including expanding the information required to be in the DPS computerized criminal history system to include for offenders released on bail, whether a warrant was issued for any subsequent failure of the

offender to appear in court.

OCA would be required to develop statewide procedures and forms for courts to facilitate the refund of any cash funds paid toward a monetary bond and the application of those cash funds to a defendant's outstanding court costs, fines, and fees.

The bill would prohibit court clerks in certain situations from deducting a current administrative fee for handling funds relating to certain bonds. Clerks could not deduct a fee from funds generated by the collection of a cash bond or cash bail bond if the defendant was found not guilty after a trial or appeal or if the complaint, information, or indictment was dismissed without a guilty or no contest plea. The fee would have to be refunded under certain circumstances described in the bill.

The bill would generally take effect January 1, 2022, and would apply to those arrested on or after that date. Certain provisions, including ones relating to the public safety report system and magistrate training, would take effect 91 days after the last day of the legislative session.

Provisions relating to prohibiting bail for certain offenses would take place only if voters approved the constitutional amendment proposed by the 87th Legislature, 2nd Called Session, requiring a judge or magistrate to impose the least restrictive conditions of bail necessary and authorizing the denial of bail under some circumstances to individuals accused of a violent or sexual offense or of continuous trafficking of persons.

**SUPPORTERS
SAY:**

SB 6 would reform the bail-setting process in Texas to better protect the public and ensure a more fair and just system for those accused of crimes by requiring those making such decisions to receive training, placing appropriate parameters on bail and certain types of bonds, giving more information to those making bail decisions, improving transparency about bail decisions, and ensuring that safety and appearance in court, not wealth, drove bail decisions. A statewide law is needed to ensure these issues are addressed uniformly.

The current system can result in bail amounts that do not reflect the threat that those accused of crimes pose to the public or the likelihood that they will appear in court. Decisions under the current system have allowed high-risk and dangerous defendants with financial means out on the streets pretrial and allowed violent and habitual offenders to be released pretrial multiple times on either personal or cash bonds, resulting in serious and violent crimes. These decisions have harmed public safety, failed victims, communities, and law enforcement, and resulted in tragedies such as the 2017 killing of Department of Public Safety trooper Damon Allen, for whom the bill would be named. Trooper Allen was shot during a traffic stop by someone who had been released on bail despite being a repeat offender with a violent past.

SB 6 would be a balanced approach to revising bail laws. Its provisions would work together to keep in jail pretrial dangerous defendants and those who may not appear in court and to allow others to quickly be moved out of jails and into the community while they await trial. These changes would better use criminal justice resources to protect the public and focus on dangerous defendants.

Development, use of public safety report system. SB 6 would improve bail decisions by giving magistrates more information about those accused of crimes. Currently, decisions can be made by magistrates who do not know a defendant's full criminal history or other vital information, such as their history of appearing in court. SB 6 would address this issue by establishing a public safety report system that would quickly provide magistrates with a readable, condensed form containing criminal history and other information that should be weighed when making bail decisions.

The public safety report would not dictate an outcome or reduce judicial discretion because magistrates would make individual decisions in each case. Other information would be considered, and the report could not be the only item relied on by a magistrate. The report would only provide information and would not be a risk assessment tool because it could not include a score or rating.

The public safety report would be free, quick and easy to use, and would not slow down bail decisions. The report would not negatively impact defendants who received a citation and summons to court. The report would be designed to be generated nearly instantaneously at the point of magistration, so there would be no effect when issuing a citation. Local jurisdictions could adopt procedures to ensure those receiving a citation and summons did not experience any delays when they appeared at a court.

Training, qualifications to make bail decisions. The bill would require training and demonstrated competency for those making bail decisions, which would ensure that qualified individuals were acting in this complex and important area. Since these decisions affect public safety and the liberty of those accused of crimes, it is especially important that everyone making them is trained and understands their duties.

Bail for defendant charged with offense committed while on bail. SB 6 would further more informed and accountable decisions about bail by limiting who could set bail for individuals who are charged with a new felony offenses while released on bail for another felony. By requiring those committing a serious offense while on bail to go before the same court where bail was set in the previous case, the bill would ensure that a defendant's history was taken into account and that a court would be accountable for decisions made about those accused of multiple crimes. The bill requires that the defendant go before the same court, rather than the same judge, since scheduling restrictions may make it difficult to appear before the same judge, or some courts may use trained magistrates accountable to the court for such cases.

Action on bail decision. SB 6 would address concerns that the current system unfairly keeps some non-dangerous defendants with limited financial means in jail pretrial. The directives in the bill to impose the least restrictive conditions and bail, either personal or money, to ensure court appearance and protect public safety would ensure defendants received fair conditions on any bond and that personal bonds and monetary bail were used appropriately.

The bill would not prohibit bail schedules, which are used to set bail based on specified factors, such as the type of offense, but rather track recent court ruling on their use and outline a process to use them. SB 6 would respect defendants' rights by establishing a fair process, including a potential hearing, when an individual was unable to give bail set by a schedule or standing order. The defendant, by being in the best position to know if bail was affordable, should be the one to raise the issue of bail being unaffordable and to provide financial information to the court. Filling out the form would not be burdensome, as the bill limits the forms to the one already used at magistration to request an attorney or one developed by OCA, and specifies that it is to be done to the best of the defendant's knowledge. These provisions would not trigger a requirement for the appointment of an attorney to indigent defendants. The bill specifically says that certain provisions should not be construed as requiring an evidentiary hearing, and the requirements would be applied only in the limited cases where there were bail schedules or standing orders.

By establishing the process to have bail from a bail schedule reviewed and setting a deadline for the hearing to consider reducing bail, SB 6 could result in some individuals being released more quickly than under current law.

SB 6 would not impose restrictions or requirements for charitable bail organizations because the state should move cautiously in this area, and more study on this issue is warranted before making changes to statutes.

Prohibited release on personal bond. SB 6 would better protect the public by limiting the use of personal bonds for those accused of certain violent offenses, as well as those charged with certain serious offenses while on bail or probation for certain crimes. Current law has resulted in dangerous defendants being released on personal bonds, in some cases multiple times, then committing violent offenses with tragic consequences.

The bill would halt the misuse of personal bonds that result in some individuals being released without the accountability of cash bail. For the serious offenses listed in the bill, it is appropriate to require money bail and more than the promise to return to court given with a personal bond. In cases where personal bonds were prohibited, magistrates would use their judicial discretion to evaluate each case and set a cash bond as they deemed appropriate, including setting low, easily attainable bonds if someone did not represent a risk to public safety or was not a risk for failure to appear in court.

Rules for setting bail. Under the bill, decisions about bail would be more reasonable than under current law, and public safety would be improved because magistrates and judges would have information from the public safety report as well as revised rules that required the consideration of criminal history, family violence, and safety to law enforcement. It is important for magistrates to know whether defendants are from Texas or live elsewhere, and considering citizenship status would be important to assess likelihood to appear in court. The bill also would direct magistrates to consider all information relevant to the statutory factors for setting bail, ensuring that a full picture of each defendant was considered.

Notice of bond conditions to local officials. The bill would help protect the public and law enforcement authorities by making sure information about bond conditions was sent to the community where a defendant lived.

Reporting bail and pretrial release information. SB 6 would improve transparency about bail decisions by requiring reporting on the amount and conditions of bail. Other requirements would give the public and legislators information to assess the bail system and to make changes if needed.

CRITICS
SAY:

SB 6 would require the use of a public safety report that could delay some bail decisions and could impose an administrative burden on courts, would establish onerous requirements for some defendants to prove they cannot afford bail, and would reduce local discretion in using different

types of bail bonds. The bill also would revise the rules for setting bail in a way that could be unfair to some defendants.

Several provisions would increase the number of individuals held in jail pretrial or the amount of time spent in jail pretrial, which goes against the presumption of innocence for these defendants. Keeping defendants in jail pretrial can have serious negative consequences for individuals, including job loss, an impact on health, family stress, and future interactions with the criminal justice system. Spending more time in jail pretrial also can lead to innocent individuals pleading guilty to get out of jail, and those in jail pretrial can be more likely to be sentenced to a term of incarceration if found guilty and to receive a longer sentence than others. More defendants spending longer in jails would be costly to counties, could be especially burdensome on rural and small jails, and could divert resources from other needs.

SB 6 could channel more defendants into the money bail system, which keeps some low-risk defendants in jail pretrial because they are unable to raise bail money and allows others who are a risk to the public but have resources to post bail and be released after an arrest. Increasing reliance on the money bail system could have a disproportionate impact on communities of color and could exacerbate racial or gender inequities tied to the criminal justice system and to economic factors that relate to an individual's ability to pay bail.

Development, use of public safety report system. A statewide requirement to use a pretrial public safety report system could unfairly delay pretrial release for some defendants and result in the detention of some who otherwise would be released. Having to produce a public safety report in all cases involving a class B misdemeanor and higher could slow down processing and keep defendants in jail longer, possibly leading to jail crowding. Requiring a public safety report also could negatively impact how counties handle cases in which law enforcement officers issue a defendant a citation and summons to court for another date. While currently these defendants may be able to take care of their citations without going to jail, the bill could result in these defendants having to

wait in jail while a public safety report was prepared and the process established by SB 6 played out.

The report might not result in a fair and accurate assessment of defendants because it would focus on information that could increase or restrict bail rather than mitigating factors or context for events. For example, the bill would require looking at previous failures to appear in court but would not require looking at the reasons for the failure. While failing to appear in court could involve a willful non-appearance in some cases, failure to appear may occur for other reasons such as transportation issues or work requirements. The look back at criminal history should have a reasonable time limit so that minor events decades in the past were not used against an individual, especially in a way that could exacerbate or perpetuate disparities in the criminal justice system.

Bail for defendant charged with offense committed while on bail. The bill's restrictions on who can set bail for certain defendants charged with committing a felony offense while released on bail for a felony could be too restrictive. In some cases, it might be appropriate to allow another court to make a decision about the second bond, especially since the bill would provide certain information for those setting bonds.

Action on bail decision. Requirements that those who cannot pay bail set by a bail schedule or standing order file an affidavit and a form with financial information could present a barrier to affordable bail for many individuals. It could be difficult for some in jail to prove the inability to pay without outside assistance, and it would be unreasonable to expect those with disabilities or other issues to do so. The onus should be on the court to verify before setting bail that a defendant has the ability to pay the amount rather than on defendants to prove that they cannot afford bail.

The process in the bill requiring an affidavit and then potentially a hearing describes what might be considered an adversarial hearing with a person's liberty at stake, and that would trigger requirements that an indigent defendant be provided with an attorney. The state should recognize this and make provisions for providing attorneys, rather than wait for litigation

to force such actions.

Jail populations could increase due to the time needed to fill out the forms and for a potential hearing on the issue, straining jail resources and increasing the negative effects on individuals of being in jail.

Prohibited release on personal bond. SB 6 would remove judicial discretion by prohibiting certain defendants from being released on a personal bond. It is unfair to categorically deny a type of bond to individuals who have only been accused and are presumed innocent. Public safety is best achieved when magistrates consider cases without restrictions on the type of bond that can be used to make bail. Judges and magistrates can be held accountable for decisions they make about releases on personal bond, and conditions such as electronic monitoring can be used for personal bonds in the same way as for monetary bonds to protect community safety.

The bill would set up a system that treated defendants unequally based on wealth. Individuals excluded from personal bonds under the bill could be given money bonds, allowing those with resources to buy their pretrial release from jail while keeping those without resources incarcerated. For defendants with limited means, even cash bonds set very low can be out of reach and result in pretrial incarceration.

The list of alleged offenses that would not be eligible for personal bonds is too broad and would eliminate options for magistrates to give personal bonds in some appropriate situations. For example, SB 6 would prohibit personal bonds for a person with mental illness who was charged with a crime involving violence after behaving in a way that was not violent in intent but injured someone.

Rules for setting bail. The rules that SB 6 would require to be considered when setting bail might not provide enough context to result in a fair and accurate assessment of defendants. The rules, like the public safety report, would focus on information that could increase or restrict bail, rather than mitigating factors or context for events such as failure to appear in court

or criminal history. The bill should not require that a defendant's citizenship status be considered because it could be used to discriminate against certain individuals and does not have a bearing on public safety.

OTHER
CRITICS
SAY:

SB 6 should include reporting requirements and limits on charitable bail organizations to increase transparency and accountability for these groups.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about \$4.3 million to general revenue through the fiscal 2023.

SB 6 is the enabling legislation for SJR 3 by Huffman (Kacal), which is on today's Constitutional Amendment Calendar.